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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,501	09/15/2000	Makoto Korehisa	450100-02714	2807
20999	7590	01/11/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/663,501

Applicant(s)

KOREHISA ET AL.

Examiner

Son P. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 8, 2005 has been entered.

Response to Arguments

2. Applicant's arguments with respect to amended claims 2, 12-19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues Knudson does not teach or suggest a random generator for generating a random time, where the random time is used to modify the determined time (page 7, lines 21-23).

In response, the Examiner relies on Knudson's disclosure of a device for generating "on demand" request for program listings information (col. 11, lines 7-22) reads on a

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random number generator for generating a random time. The Examiner further relies on Gordon patent for teaching of wherein the random time is used to modify the determined time.

Rejections on amended claims 2, 12-19 are analyzed as discussed below.

Claims 1 and 3-11 have been canceled.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 2 and 12-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 2 recites, **"wherein the random time is used to modify the determined time"** (page 3, line 14). Applicant indicates that support for this amendment is provided

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throughout the specification as originally filed, specifically at pages 7-10 and Figures 1 and 5 (see Remarks/Argument, page 6, paragraph 2, lines 3-4). However, Examiner does not find support for such a recitation in the pages 7-10 of the specification as indicated by the Applicant. Figure 1 shows the broadcast program information receiving apparatus comprises a random number generator 207 for generating a random time; an access control section 220 having a timer 201 for setting time information and an access controller 202 for monitoring the time information of the timer 201 and the random number generator 207 for making a data transfer request to a data server access section 203 (figure 1 and page 7, lines 7-20; page 9, lines 1-15). Figure 5 shows a broadcast program information processing apparatus comprises means for downloading broadcast program information from a data server on a network at a random timing based on the preset time (page 14, paragraph 3, lines 1-4). The broadcast program information processing apparatus comprises random number generator 207 for generating a random time when the time information match; the access controller 202 monitors the random time of the random number generator 207 and the time information from the timer 201, and issues an instruction to the data server access section 203 when the time information match so that a data transfer request is made to the data server 100 (page 17, paragraphs 2,4). Therefore, neither the pages that the applicant pointed to in the specification (pages 7-10), nor the entire specification shows support for the feature of **"wherein the random time is used to modify the determined time"** as recited in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2,12-15, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US 6,536,041) in view of Yuen et al. (US 6,583,825) and further in view of Gordon et al. (US 5,920,700).

Regarding claim 2, Knudson teaches information processing apparatus (figure 1) comprising:

a data server (e.g. facility 22) having a database (program guide database 24) for storing program information (figure 1);

a plurality of program information receiving apparatus (television distribution facility 26— figure 1) having a means for accessing the data server and first means (telephone network links) for downloading the program information (col. 5, lines 32-52);

one or more devices (set top box, television, VCR), coupled to one or more of the plurality of program information receiving apparatus (26) by second means for downloading (cable links, satellite links, or fiber optic links — figure 1, col. 6, lines 26-36; col. 7, lines 36-63); Inherently, the first means (telephone network link) for downloading has a lower transmission rate than the second means (cable links, satellite link) for

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downloading. Knudson further discloses downloading the program information from the data server continuously, periodically, or on demand, or may be performed using any other suitable technique (col. 7, lines 9-11; col. 11, lines 7-18) broadly reads on the first means for downloading has access times to the data server and downloads the program information from the data server at a determined time; the device for generating the on demand request for program listings information is broadly read on a random number generator for generating a random time. However, Knudson does not specifically disclose a table in which access times are set for each region, and downloads the information at a determined time set by the table.

Yuen discloses a table in which access times are set for each region, and downloads the information at a determined time, set by the table (e.g. host schedule packet in which access time are set for each geographical area, and downloads the information at a determined time, set by the host schedule packet, for example, broadcast electronic program guide at 10:30 A.M and again at 7:00 P.M- Col. 10, lines 1-15, figures 11-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson to use the teaching of a table to store access time as taught by Yuen in order to automatically send out data in a predetermined order. However, Knudson in view of Yuen does not specifically disclose random time is used to modify the determined time.

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Gordon discloses a random number generator for generating a random time (reads on device for generating random times for news (i.e. between the hours of 8:00 P.M and 10:00 PM) with higher priority than music); wherein the random time is used to modify the determined time (random time for news instead of determined time for movies and music) – see col. 7, line 52-col. 8, line 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson and Yuen to use the teaching as taught by Gordon in order to optimize transmission variable so that the end user gains access whenever desired (col. 2, lines 23-26).

Regarding claim 12, Knudson further discloses providing the program information on demand, or any other suitable technique (col. 11, lines 10-20). Necessarily, the determined time is a function of a random timing based on a preset time (timing based on time received a demand).

Regarding claim 13, Knudson further discloses Main facility contains a processor to handle information distribution tasks (col. 7, lines 28-30) or program guide server at location other than television distribution facility (26 – col. 7, lines 13-16), for providing the program information continuously, periodically, or on demand, or may be any other suitable technique (col. 11, lines 10-20). Necessarily, the determined time is a function of a time set by a management server (either at the main facility or program guide server), which manages the data server so that the program information is provided periodically, or at the time a demand is received, or continuously.

Regarding claim 14, Knudson in view of Yuen teaches an apparatus as discussed in the rejection of claim 2. Yuen further discloses a function of time set by a table (e.g., host schedule packet – figure 11), the table adapted to store access time for the server (e.g. broadcast electronic program guide at 10:30 A.M and again at 7:00 P.M – col. 10, lines 1-15).

Regarding claim 15, Yuen further discloses the table includes region codes (e.g., region codes for host 0407) in which postal code are identifiers (col. 10, lines 1-64).

Regarding claim 18, Knudson further discloses Main facility contains a processor to handle information distribution tasks (col. 7, lines 28-30) or program guide server at location other than television distribution facility (26 – col. 7, lines 13-16), for providing the program information continuously, periodically, or on demand, or may be any other suitable technique (col. 11, lines 10-20). Necessarily, the determined time is a function of a time set by a service provider (either at the main facility or program guide server) that is adapted to be connected to the program information receiving apparatus (distribution facility 26) so that the program information is provided continuously, or periodically.

Regarding claim 19, Knudson further disclose the determined time is a function of a load distribution state of the data server (main facility), that downloads the program

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information at a determined access time (time set to periodically provide the program information or at the time a demand is received – col. 7, lines 10-30; col. 11, lines 10-20).

7. Claims 16-17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. (US 6,536,041) in view of Yuen et al. (US 6,583,825) and Gordon et al. (US 5,920,700) as applied to claim 14 above, and further in view of Ganzer et al. (US 5,121,430).

Regarding claim 16, Knudson in view of Yuen and Gordon teaches an apparatus as discussed in the rejection of claim 14. Yuen further discloses particular geographic area (col. 4, lines 42-67). However, none of these references specifically discloses region codes in which telephone area codes are identifiers.

Ganzer discloses region codes in which telephone area codes are identifiers (col. 3, lines 41-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson and Yuen and Gordon to use the teaching as taught by Ganzer in order to target advertisement to predetermined group of telephone users.

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Regarding claim 17, Knudson in view of Yuen and Gordon teaches an apparatus as discussed in the rejection of claim 14. However, none of these references specifically discloses region codes in which codes for urgent warning broadcasts are identifiers.

Ganzer discloses region codes in which codes for urgent warnings broadcast are identifiers (alert code/types col. 3, lines 29-45; col. 6, lines 1-16; col. 7, lines 5-63).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knudson and Yuen and Gordon to use the teaching as taught by Ganzer in order to notify user in advance of type of incoming event thereby minimizing damages.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yoshinubu et al. (US 5,686,954) discloses program information broadcasting method program information display method, and receiving device.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH
January 5, 2006



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